



Billing Code 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-ES-2014-0050; FXES111X0500000-XXX-FF05E00000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for Indiana Bat (*Myotis sodalis*) and Northern Long-eared Bat (*Myotis septentrionalis*) at the Copenhagen Wind Farm, Jefferson and Lewis Counties, New York; and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an application from Copenhagen Wind Farm, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act (ESA). The applicant requests the ITP for take of the federally endangered Indiana bat and threatened northern long-eared bat incidental to otherwise lawful activities associated with operation of its Copenhagen Wind Farm, a 40-turbine wind farm that has been constructed in Jefferson and Lewis

Counties, New York. The applicant proposes a conservation program to minimize and mitigate for the unavoidable incidental take as described in its Indiana Bat and Northern Long-eared Bat Habitat Conservation Plan for the Copenhagen Wind Farm, Lewis and Jefferson Counties, New York (HCP). We request public comment on the application, which includes the applicant's proposed HCP, and the Service's draft environmental assessment, prepared pursuant to the National Environmental Policy Act. We provide this notice to seek comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments submitted electronically using the Federal eRulemaking Portal (see

ADDRESSES) must be received by 11:59 p.m. Eastern Standard Time on the closing date.

ADDRESSES: *Obtaining documents:*

- *Internet:* You may obtain copies of the application including the HCP and draft environmental assessment (EA) on the internet at the New York Ecological Services Field Office's website at <https://www.fws.gov/northeast/nyfo/> or at <http://www.regulations.gov> at Docket No. **FWS-R5-ES-2014-0050**.
- *In-person:* Documents are available for public inspection by appointment during regular business hours at the New York Ecological Services Field Office, 3817 Luker Road, Cortland, NY 13045. Call 607-753-49334 to make an appointment.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so by one of the following methods. Please reference Docket Number FWS-R5-ES-2014–0050 in all comments. For additional guidance on submitting comments, please see Public Comments under **SUPPLEMENTARY INFORMATION**.

- *Electronically:* Go to the Federal eRulemaking Portal website at: <http://www.regulations.gov>. In the Search box, enter FWS-R5-2014–0050, which is the docket number for this notice. Click on the appropriate link to locate this document and submit a comment.
- *By hard copy:* You may submit by mail or hand-delivery to Public Comments Processing, Attn: Docket No. FWS-R5-ES-2014–0050, New York Ecological Services Field Office, U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY, 13045. We request that you send comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT: Robyn Niver, by mail at New York Ecological Services Field Office, U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY 13045; or by phone at 607–753–9334.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect “listed animal species”, or to attempt to

engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant’s Proposed Project

The applicant requests a 25-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*). The applicant determined that unavoidable take is reasonably certain to occur incidental to operation of 40 previously constructed wind turbines. The proposed conservation strategy in the applicant’s proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of Indiana bats and northern long-eared bats through onsite minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any unavoidable impacts from operations of the project. The HCP provides onsite avoidance and minimization measures, which include turbine operational adjustments. The estimated level of take from the project is 4 Indiana bats and 16 northern long-eared bats over the 25-year project duration. To offset the impacts of the unavoidable taking of Indiana bats and northern long-eared bats, the applicant proposes to protect a high priority winter hibernaculum by installing a gate.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: a no-action alternative, the proposed action, and an alternative consisting of feathering below the manufacturer's cut-in wind speed.

Next Steps

The Service will evaluate the application and the comments received to determine whether the permit application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Public Comments

The Service invites the public to comment on the proposed HCP and draft EA during a 30-day public comment period (see **DATES**). You may submit comments by one of the methods shown under **ADDRESSES**.

Public Availability of Comments

We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

Glenn S. Smith,

Acting Assistant Regional Director,

Ecological Services,

North Atlantic-Appalachian Region.

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